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DISTRICT ATTORNEY



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County of Allegheny

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Mr. Alton D. Brown
#DL 4686
175 Progress Drive
Waynesburg, PA 15370

March 6, 2017

Mr. Kevin McCarthy, Esquire
Open Records Officer
Office of District Attorney
401 Courthouse
436 Grant Street
Pittsburgh, PA 15219

In re: OOR Dkt. AP 2017-0294; Alton Brown v. Allegheny County District Attorney

Dear Mr. Brown and Attorney McCarthy:

I am the Open Records Appeals officer for Allegheny County. On February 27, 2017 I received a referral from the Office of Open Records in the referenced case. The parties are familiar with the procedure. On January 18, 2017 Mr. Brown requested the following:

Criminal Complaint filed against Alton D. Brown, in or around 2000, that stems from an incident that occurred on Nov. 28, 2000.

In denying the request Mr. McCarthy stated, among several reasons, that the criminal complaint was exempt from disclosure pursuant to 65 P.S. §67.708(b)(16) since it related to a criminal investigation and (16)(i) specifically exempts “Complaints of potential criminal conduct other than a private criminal complaint.” (See letter dated January 23, 2017).

As the Office of Open Records explained in *Jones v. Pennsylvania Game Commission*, OOR Dkt. AP 2009-0196 records pertaining to a closed criminal investigation remain protected because Section 708(b)(16) expressly protects records relating to the result of a criminal investigation and thus remain protected even after the investigation ends. See also, *State Police v. Office of Open Records*, 5 A.3d 473 (Pa. Cmwlth. 2010); *Sherry v. Radnor Twp. School District*, 20 A.3d 515 (Pa. Cmwlth. 2011).

As a result, I must decline Mr. Brown’s request and affirm Allegheny County’s denial of access. Please be advised that pursuant to Section 65 P.S. §67.1302 the parties have 30 days to appeal my decision to the Court of Common Pleas of Allegheny County.

Very truly yours,

Michael W. Streily
Deputy District Attorney
Open Records Appeals Officer